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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,266	04/11/2001	Nathan Jacob Litke	01339.0005.00US01	3520

22930 7590 12/23/2003

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EXAMINER

PHAN, THAI Q

ART UNIT	PAPER NUMBER
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2128

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DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/833,266

Applicant(s)

LITKE ET AL.

Examiner

Thai Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 11 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 04. 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to patent application S/N: 09/833,266. Claims 1-26 are pending.

Information Disclosure Statement

The information disclosure statement filed 04/11/2001 has been considered.

Drawings

The drawings filed on 04/11/2001 are acceptable for examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 11, 24, and 26 are rejected under 35 U.S.C. 102(b) as anticipated Einkauf et al., US patent no. 5,283,860.

As per claim 10, Einkauf anticipates a method and system for displaying trimmed surfaces for objects on a computer graphic system with feature limitations identical to the claimed invention (Abstract). According to Einkauf, the method include steps:

Defining a mesh of polygons for representing an object surface (Figs. 1, 10),

Projection of a trim curve defining a trim area on the mesh, wherein boundary vertices of polygons located near the trim curve lie on the trimming curve projection (col.

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3, line 20 to col. 4, line 59, col. 6, lines 44-56, col. 7, line 49 to col. 9, line 63, for example).

As per claim 11, Einkauf anticipates meshes of polygons and subdivided meshes of polygons as claimed (col. 4, line 35 to col. 5, line 8, col. 6, line 44 to col. 7, line 13, for example).

As per claim 24, Einkauf anticipates a method for trimming object surface through a mesh of polygons with feature limitations identical to the claimed invention (

As per claim 26, Einkauf anticipates a processor for performing mesh trimming as claimed.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-26 are rejected under the judicially created doctrine of double patenting over claims 1-35 of U. S. Patent No. 6,603,473 B1 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

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The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

The present claimed invention requires determining detail data to refine the locations of the corresponding vertices of the mesh representation in comparison with the difference data being weighted and the detail data being derived in forming vertices of polygonal mesh as in the claims of the patent no. 6,603,473 B1. The detail data in the mesh representation could be obviously derived from the weight difference data in order to refine and differentiate detail data for trimming mesh representation of the object surface as claimed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. US patent no. 5,353,389, issued to Fiasconaro, James, on Oct. 1994
2. US patent no. 5,555,356, issued to Scheibl, Frederick, on Sept. 1996
3. US patent no. 6,253,164 B1, issued to Rohm et al., on June 2001

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examine Thai Phan whose telephone number is (703)305-3812.

The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Thai Phan
Dec. 12, 2003

Thai Phan
Patent Examiner
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